

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**ORDER NO. R9-2009-0178  
AN ORDER  
RATIFYING MINOR MODIFICATIONS  
TO  
ORDER NO. R9-2004-0154  
NPDES PERMIT NO. CA0001368**

**WASTE DISCHARGE REQUIREMENTS  
FOR  
DUKE ENERGY SOUTH BAY LLC  
SOUTH BAY POWER PLANT  
SAN DIEGO COUNTY**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Water Board), finds that:

1. On November 10, 2004, this Regional Water Board adopted Order No. R9-2004-0154, National Pollutant Discharge Elimination System (NPDES) permit No. CA0001368, Waste Discharge Requirements for Duke Energy South Bay, LLC, South Bay Power Plant, San Diego County. Order No. R9-2004-0154 establishes requirements for the discharge of up to 601.13 million gallons per day (MGD) of heated once-through cooling water from the South Bay Power Plant (SBPP) electrical generating units to south San Diego Bay.
2. Order No. R9-2004-0154 contains an expiration date of November 10, 2009. The current operator, Dynegy South Bay LLC submitted a complete NPDES permit reissuance application dated April 10, 2009 for the reissuance of Order No. R9-2004-0154 for the South Bay Power Plant. The Regional Water Board is not moving forward with the reissuance of the NPDES permit at this time.
3. By letter dated November 9, 2009, the Regional Water Board Executive Officer made minor modifications to the Findings, Prohibitions, and Provisions of Order No. R9-2004-0154. The minor modifications are described in Attachment 1 to this Order.
4. Order No. R9-2004-0154, including the attached minor modifications, will remain fully effective and enforceable under an administrative extension until December 31, 2010 absent further action by the Regional Water Board.
5. The adoption of this Order is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 *et seq.*) in accordance with the California Water Code, Section 13389.
6. The Regional Water Board has notified the discharger and all known interested parties of its intent to ratify the minor modifications to Order No. R9-2004-0154 and

has provided them with an opportunity to submit their written comments and recommendations.

7. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to this action.

**IT IS HEREBY ORDERED, that:**

1. The minor modifications to Order No. R9-2004-0154 as described in the Executive Officer's November 9, 2009 letter and attached hereto as Attachment 1 are ratified as fully effective and enforceable requirements of the Order.

*I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on December 16, 2009.*

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JOHN H. ROBERTUS  
Executive Officer

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Except as modified or superseded by the permit modifications set forth below, all of the findings, prohibitions, provisions and other requirements of Order No. R9-2004-0154 remain in full force and effect. The following minor modifications of Order No. R9-2004-0154 are hereby incorporated and immediately effective:

**Findings added to Order No. R9-2004-0154**

32. Dynegy South Bay, LLC (Dynegy) assumed responsibility for compliance with Order No. R9-2004-0154 on April 2, 2007.
33. By letter dated October 9, 2009 the California Independent Systems Operator Corporation (CAISO) informed the Regional Board that the "Reliability Must Run" agreement for Units 3 and 4 will terminate at midnight on December 31, 2009. CAISO also reported that the RMR agreement for Units 1 and 2 was extended through the 2010 contract year. CAISO will require RMR services for Units 1 and 2 until such time as replacement capacity within the San Diego Gas and Electric service area is available. CAISO reports that it will continue to work with all stakeholders in finding a way to allow the South Bay Power Plant to close while maintaining the electrical system reliability needed in the San Diego local area.
34. By letters dated October 16, 2009 and October 19, 2009, Dynegy provided information regarding the schedule for shutdown and closure of the South Bay Power Plant. These letters were submitted to update Dynegy's previously submitted April 10, 2009 Report of Waste Discharge in application for the reissuance of the current National Pollutant Discharge Elimination System (NPDES) Order No. R9-2004-0154 for South Bay Power Plant. Dynegy reported that electrical generating Units 3 and 4 at South Bay Power Plant will not be operated after December 31, 2009. Based on available information and on a CAISO request to provide a provision in the 2010 RMR contract that would allow the CAISO to terminate the contract for Units 1 and 2 prior to December 31, 2010, Dynegy believes that a NPDES discharge permit that would expire on December 31, 2010 would be sufficient to meet the CAISO's stated reliability requirements.

Dynegy requested to continue operation of Units 1 and 2 under the current NPDES permit at a reduced maximum flow-rate of 225 million gallons per day (MGD) until December 31, 2010 absent further action by the Regional Board.

**Prohibition added to Order No. R9-2004-0154**

14. After December 31, 2009, the combined discharge to San Diego Bay from the South Bay Power Plant in excess of 225 MGD is prohibited.

**Provisions added to Order No. R9-2004-0154**

23. All references to Duke Energy South Bay, LLC in Order No. R9-2004-0154 shall henceforth refer to Dynegy South Bay, LLC as the entity subject to regulation under Order No. R9-2004-0154. Dynegy South Bay, LLC is liable for any violation on and after the transfer date of April 2, 2007.
24. The discharges from electrical generating Units 3 and 4 at the South Bay Power Plant shall be terminated on or before December 31, 2009 absent further action by the Regional Board. The termination of these discharges shall not result in the discharge of pollutants from other outfalls except in accordance with this Order. References to flows from Units 3 and 4 point source outfalls in Order No. R9-2004-0154 are deleted upon termination of these discharges.
25. After December 31, 2009, Order No. R9-2004-0154 shall apply only to the discharges from electrical generating Units 1 and 2 at a maximum reduced flow rate of 225 MGD.
26. The discharges from Units 1 and 2 shall terminate on the date CAISO determines that Reliability Must Run (RMR) services from Units 1 and 2 are no longer needed or December 31, 2010, whichever occurs first, absent further action by the Regional Board.
27. The Regional Board will conduct a public hearing to consider rescinding Order No. R9-2004-0154 upon termination of all discharges from the South Bay Power Plant.

*I, John H. Robertus, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of minor modifications to Order No. R9-2004-0154 executed on November 9, 2009.*

  
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JOHN H. ROBERTUS  
Executive Officer